

### REMARKS

This Response is to the Office Action dated August 5, 2010, and the telephone interview courteously granted to Applicants' representative on November 3, 2010. In the Office Action, claims 11, 13 to 20, 28 and 30 to 34 are pending and rejected, with claims 1 to 10, 12, 21 to 27 and 29 having been previously cancelled. By this Response, claims 11, 15 and 16 have been amended. A Request for Continued Examination ("RCE") and a request for one-month extension of time is submitted herewith. Please charge Deposit Account No. 02-1818 for the RCE, the extension of time, and any other fees due in connection with this Response.

In the Office Action:

(a) claims 11, 14 to 16, 28 and 30 to 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,364,834 to Reuss ("*Reuss*") in view of U.S. Publication No. 2002/0016568 to Lebel et al. ("*Lebel*") and further in view of U.S. Patent No. 5,331,549 to Crawford ("*Crawford*");

(b) claims 7, 13, 17, 18 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Reuss*, *Lebel*, *Crawford* and further in view of U.S. Patent No. 6,057,758 to Dempsey et al. ("*Dempsey*"); and

(c) claim 19 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Reuss*, *Lebel*, *Crawford* and further in view of [www.catharsismedical.com](http://www.catharsismedical.com).

#### **35 U.S.C. § 103(a) Rejection**

Regarding the rejection of claims 11, 14 to 16, 28 and 30 to 38 over *Reuss* in view of *Lebel* and *Crawford* and as discussed in the interview, Applicants respectfully disagree with the Office Action's interpretation and combination of references for the following reasons.

Regarding claim 11, the Office Action states that *Reuss* teaches several features but fails to disclose "where the relayed response message generated by the first central computer including the response message generated by the second central computer plus, additional data added by the first central computer, the information including information contained within a data packet generated by an infusion pump, wherein the information contained within the data packet includes at least one of status information related to an administration of a medication to a patient by the infusion pump and programming information for the infusion pump." (Office Action, page 3). The Office Action alleges, however, that *Lebel* cures the above-quoted

deficiency of *Reuss*. In view of the clarifying amendments discussed and generally agreed upon in the Examiner interview, Applicants respectfully disagree.

*Lebel* is directed generally to an implantable infusion pump with operational functionality that is at least in part controlled by software operating in two processor ICs, which are configured to perform some different and some duplicate functions. The pump exchanges messages with an external device via telemetry, and each processor controls a different part of the drug infusion mechanism such that both processors must agree on the appropriateness of drug delivery for infusion to occur. (*Lebel*, abstract).

The Office Action asserts that *Lebel* “teaches a system comprising the relayed response message generated by the first central computer including the response message generated by the second central computer plus, additional data added by the first central computer” at paragraph 191 of *Lebel*.

The system includes memory space and program capability to personalize the external communication device and implantable device so that information such as the patient name and physician name can be stored for later retrieval and review. For example, the personal ID may be as little as 10 characters and as much as 200 characters or more. In the linking process it is preferred that at least a portion of this information be used in determining that the external communication device has contacted the desired implantable device (assuming the implantable device has already been previously programmed with identity information[]). When identification information is updated in the external communication device it is passed on to and stored in the implantable device.

The above-quoted paragraph of *Lebel* does not disclose, teach or remotely suggest that a second computer of a network creates a response message and sends the response message to the first computer in the network. *Lebel* also does not disclose that the response message sent over the network from the second computer to the first computer is modified by the first computer by adding additional data to the response message to make it a supplemented response message. Further, *Lebel* does not disclose that the modified or supplemented response message is subsequently sent from the first computer to the remote device.

It appears that the Office Action is suggesting that it would have been obvious to combine the response message allegedly disclosed by *Reuss* with a different signal sent from a remote device to an implantable catheter in *Lebel* to disclose a supplemented message sent from a second computer to a first computer, modified by the first computer to become a supplemented response message, and sent to a remote device. If so, the combination is not obvious because the

signal sent in *Lebel* never passes from the second computer through the first computer, which supplements the message with additional data, and to the remote device. The signal sent in *Lebel* goes from a remote device directly to an implantable device. The portion of *Lebel* cited by the Office Action (paragraph [0191]) describes an external communication device that includes updated identification information that is passed on to and stored in an implantable device, and does not suggest that the data is sent to a computer that supplements it with additional data, and sends the supplemented message to the portable device. The destination of the signal in *Lebel* is from the remote device to the implantable device. In claim 11, the signal is sent from the second computer to the first computer and then to the remote device. One of ordinary skill in the art would not conceive combining the two references in the way that the Examiner has suggested.

In the interview of November 3, 2010, Examiner explained to Applicants' representative that it was unclear what additional data the first central computer added to the "relayed" response message to send to the portable remote device. The Examiner expressed concern that the "additional data" could include anything, and as was previously presented, claim 11 was too vague and unclear. Applicants have clarified claim 11 to state that the additional information includes status information related to an administration of a medication to a patient by the infusion pump and programming information for the infusion pump. As generally agreed upon in the interview, claim 11 has been amended to specify what the additional data is, and as discussed, *Lebel* fails to disclose these features. Applicants respectfully submit that amended claim 11 now clearly states the supplemented response message includes the response message and additionally status information and programming information. The additional information is added or supplemented to the response message. As discussed above, neither *Reuss* nor *Lebel* discloses such a configuration. The signals sent in *Lebel* include entirely different data than the signals sent in *Reuss*. In *Lebel*, rather than one signal including data, and the second signal including the data in addition to supplemented data about status information and programming information.

The Examiner also expressed that regarding the term: "relayed response message," that it was not clear whether or not the message sent by the second computer to the portable remote device included additional data. As a result, Applicants have amended the relayed response message to be the "supplemented response message" as agreed upon with the Examiner. The amendment is supported by the specification at least at paragraph 109 and the example

embodiment described in paragraphs 139 to 164. The Examiner also recommended that the remote device be amended to clarify that it is a “portable” remote device, and that the portable remote device is assigned to the clinician. As extensively discussed in the specification, one embodiment of the clinician’s device is a personal digital assistant (PDA) which is known to be a portable device.

Applicants respectfully submit that the other cited references *Crawford*, *Dempsey* and [www.catharsismedical.com](http://www.catharsismedical.com) fail to cure the deficiencies of *Reuss* and *Lebel*. Applicants respectfully submit that for at least the above reasons, and those discussed in the November 3, 2010 interview, claim 11 is patentable over the art of record, and in condition for allowance.

Claim 15 has been amended to include similar changes as agreed upon in the interview and entered into claim 11. Dependent claim 16 has accordingly amended as a result of the amendments entered into claim 15. Applicants respectfully submit that for at least the reasons discussed above, and due to the interview discussion and agreement, both claims 11 and 15 (as well as dependent claims 13, 14, 16 to 20, 28 and 30 to 38) are now patentable over the art of record.

Regarding the separate obviousness rejections of Claim X in view of Y and Claim X in view of Y, Applicants respectfully submit that claims 7, 13, 17, 18 and 20 are patentable over the combination of *Reuss*, *Lebel*, *Crawford* and *Dempsey* and claim 19 is patentable over the combination of *Reuss*, *Lebel*, *Crawford* and [www.catharsismedical.com](http://www.catharsismedical.com) for the same reasons as given for their respective independent claims.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,  
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